

# **EXHIBIT 12**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK: PART 48

IN RE: OPIOID LITIGATION

INDEX NO.: 400000/2017

August 18, 2020  
Central Islip, New York

MINUTES OF FRYE HEARING  
(Testimony of James Rafalski)

B E F O R E: HON. JERRY GARGUILO  
Supreme Court Justice

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1 but that the integrity of the system. The person  
2 who designs -- the company that designs the system  
3 designs it, a trigger.  
4

5 So the 100 is the trigger. The  
6 resolution of a 100 pill bottle would probably be an  
7 easy resolution, an easy due diligence.  
8 Hypothetically, that August number could be 30,000.  
9 So -- but the answer is yes, the system would stop  
10 that order and it should.

11 Q. Would it automatically report it  
12 regardless of what that, what the company finds  
13 looking at that order?

14 A The system would report it. No, sir.  
15 That's up to the registrant.

16 Q. Okay. Now, your methodology, the six  
17 months does not build in slight increases from month  
18 to month in the threshold to account for the fact  
19 that there are time periods in which prescribing  
20 levels were increasing, correct?

21 A Again, I don't want to correct you.  
22 This isn't my methodology. This was the methodology  
23 that was used by Masters, and they elected not to  
24 build that component into this system.

25 I just used the system as it was

1  
2 designed.

3 Q. Sir, this methodology, Methodology A  
4 does not build in slight increases from month to  
5 month to account for time periods in which doctors  
6 were making the medical judgment to prescribe more  
7 opioids, right?

8 A It does not build that in, that's  
9 correct.

10 Q. It doesn't adjust threshold levels at  
11 all based on whether doctors are making the judgment  
12 to prescribe more legitimate prescription opioids or  
13 less, correct?

14 A There's no components for doctors. It's  
15 up to the company that designed it to make the  
16 decision on whether or not to ship increasing  
17 amounts of that drug.

18 Q. Should a suspicious order monitoring  
19 program take into account changes in medical  
20 practices such as whether doctors were prescribing  
21 more or fewer prescription opioids? Yes or no.

22 A There's not a yes-or-no answer to that  
23 because of the qualifications.

24 Q. Okay. Do you know of any generally  
25 accepted methodology for detecting suspicious orders